

88-268-SPHA

IN RE: Petitions for Zoning Variance *
and Special Hearing *
E/S Deer Park Road, 2315' to *
c/1 of Delfield Road *
(4929 Deer Park Road) *
4th Election District *
3rd Councilmanic District *
David Rudolph Kessler *
Petitioner *

BEFORE THE *
ZONING COMMISSIONER *
OF BALTIMORE COUNTY *
Case No. 88-268-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner has requested approval, pursuant to Section 500.7, of a Petition for Special Hearing for finding of a nonconforming use of a farm for the subject property and, also, a Petition for Zoning Variance from Section 101 definition of a Farmette to permit more than one horse per each acre of grazing and pasture land, all of which is more particularly described on Petitioner's Exhibit 4.

The Petitioner, represented by Robert W. Cannon, Esquire, appeared and testified. There were no Protestants. The evidence was proffered by the Petitioner's attorney.

The Petitioner requested, through their attorney, that the Petition for Zoning Variance be dismissed without prejudice by a preliminary Motion. The Motion was accepted and the Petition for Zoning Variance was dismissed without prejudice.

The evidence in this matter tends to indicate that the current owners of the subject site known as 4929 Deepark Road purchased the property in July of 1983. The Petitioner stated that the property currently contains 3.2 acres on two separate parcels. The entire property is zoned R.C.5 and is improved with a dwelling house, separate garage, separate stable area and two small storage sheds. The entire southern half of the property is fenced for a horse stable area and has been used that way for several years.

RE: PETITION FOR *
SPECIAL HEARING *
E/S Deer Park Rd. *
DAVID RUDOLPH KESSLER, *
MARY D. KESSLER *
Petitioners *

BEFORE THE ZONING *
COMMISSIONER *
OF *
BALTIMORE COUNTY *
Case No. 88-268-SPHA

WITHDRAWAL AND ENTRY OF APPEARANCE

Please withdraw the appearance of Bradford G.Y. Carney, Esquire and Weinberg and Green as attorney for Petitioners and enter the appearance of Robert W. Cannon and Steven C. Hilsee on behalf of David Rudolph Kessler and Mary D. Kessler, Petitioners.

80066
Bradford G.Y. Carney
100 South Charles Street
Baltimore, Maryland 21201
Telephone: (301) 332-8921

Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
Telephone: (301) 332-8816

Steven C. Hilsee
100 South Charles Street
Baltimore, Maryland 21201
Telephone: (301) 332-8787

Attorneys for Petitioner

David R. Kessler
E/S Deer Park Rd. 2315' to c/1 of
Delfield Rd. (4929 Deer Park Rd.)

The Petitioner's testimony and the proffer information tends to establish that the subject site was used as a horse farm as early as 1961. That Mr. Wingfield has lived next door since 1961 and the land has always been a horse farm. There have been as few as four (4) horses and as many as ten (10) horses.

Pursuant to the advertisement, posting of property, and public hearing held on the Petition and it appearing that by reason of the following finding of facts that (i) the subject property 3.2 acres in a Resource Conservation rural residential R.C. 5 zone has been used as a "Farm", under Section 101 of the B.C.Z.R., continuously since a date preceding enactment of the "Farmette" term definition, and all existing buildings and structures located on the subject property are being used in connection with permitted, conforming uses in an R.C.5 zone and are not subject to restrictions on nonconforming uses set forth in B.C.Z.R., Section 104.1.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of March, 1988 that (i) the subject property may be used as a "Farm" as a valid, nonconforming use; (ii) Petitioner shall not be subject to the limitations set forth in the definition of "Farmette" (B.C.Z.R., Section 101); (iii) this Order permitting continued future use of the subject property as a "Farm" not subject to the limitations set forth in the definition of "Farmette" is, in the Zoning Commissioner's discretion, necessary for the proper enforcement of the B.C.Z.R. and will promote public health, safety, convenience, and general welfare of the community and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order subject, however, to the following restrictions which are conditions precedent to the relief herein granted:

- 2 -

COPIES RECEIVED FOR FILING
By: [Signature]
Date: 3/15/88

1. The Petitioner may rely on this Order as evidence of the existence of a valid, nonconforming use as a Farm; however, Petitioner is hereby made aware that such reliance is subject to expiration of the applicable appellate process from this Order. If, for whatever reason, this Order is reversed, the Petitioner would be required to comply with the final administrative or judicial determination.
2. To the extent the subject property is used for horse breeding, training, and stabling, no more than ten (10) horses shall be stabled on the subject property at any time.

J. Robert Haines
ZONING COMMISSIONER
OF BALTIMORE COUNTY

JRH:mn
cc: Peoples Counsel
cc: Animal Welfare League of Greater Baltimore, Inc.

COPIES RECEIVED FOR FILING
By: [Signature]
Date: 3/15/88

- 2 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and or Deputy Zoning Commissioner should approve a finding of non-conforming use as a farm and/or animal boarding place (FFOR) to the subject property.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	David Rudolph Kessler
Signature	(Type or Print Name)
Address	Signature
City and State	Mary D. Kessler
	(Type or Print Name)
	Signature
Attorney for Petitioner:	
William B. Bergen, Jr.	4929 Deepark Road
(Type or Print Name)	Address
Signature	922-2694 Phone No.
17 Commerce Street	Owings Mills, Maryland
Address	City and State
Baltimore, Maryland 21202	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	(Attorney for petitioner)
Attorney's Telephone No. (301) 539-6841	Name
	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of November, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 403, County Office Building in Towson, Baltimore County, on the 20th day of January, 1988, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 101 (Farmette definition) to permit more than one horse.... for each acre of grazing or pasture land.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Petitioners have no other location available to them to adequately maintain their horses.

And for other reasons which will be discussed at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	David Rudolph Kessler
Signature	(Type or Print Name)
Address	Signature
City and State	Mary D. Kessler
	(Type or Print Name)
	Signature
Attorney for Petitioner:	
William B. Bergen, Jr.	4929 Deepark Road
(Type or Print Name)	Address
Signature	922-2694 Phone No.
17 Commerce Street	Owings Mills, Maryland
Address	City and State
Baltimore, Maryland 21202	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	(Attorney for petitioner)
Attorney's Telephone No. (301) 539-6841	Name
	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of November, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 403, County Office Building in Towson, Baltimore County, on the 20th day of January, 1988, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

(over)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner

November 20, 1987

Mr. David Rudolph Kessler
4929 Deepark Road
Owings Mills, Maryland 21117

Re: Petitions for Zoning Variance and Special Hearing
E/S Deer Park Road, 2315' to c/1 of Delfield Road
(4929 Deer Park Road)
4th Election District - 3rd Councilmanic District
David Rudolph Kessler - Petitioner
Case number: 88-268-SPHA

Dear Mr. Kessler:

Please be advised that is due for advertising and posting of the above-referenced property. All advertising and posting fees must be paid to the property from the time it is itself.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE _____ ACCOUNT _____

AMOUNT \$ _____

RECEIVED FROM _____

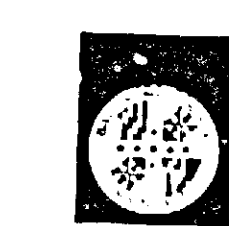
FOR _____

VALIDATION OR SIGNATURE OF CASHIER _____

No. 45912

County, Maryland and forward
113, Towson, Maryland 21204.

Very truly yours,
J. Robert Haines
Zoning Commissioner of Baltimore County



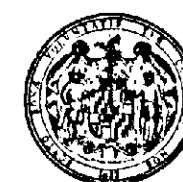
DESCRIPTION

Located in the centerline of Deer Park Road approximately 2315' north of the centerline of Delfield Road and running the following courses and distances:

- S 72° 30' E 208.19' thence
- S 17° 30' W 80.00' thence
- S 72° 30' E 200.00' thence
- S 17° 30' W 107.00' thence
- S 62° 14' W 571.35' thence
- S 13° 11' E 200.00' thence
- S 18° 51' E 193.80' to the place of beginning.

Also known as 4929 Deer Park Road.

William Donald Scheffer
Governor
Melvin A. Steinberg
Lt. Governor



Wayne A. Cawley, Jr.
Secretary
Robert L. Walker
Deputy Secretary

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE
Serving People and Maryland's Number One Industry - Agriculture
STATE BOARD OF INSPECTION OF HORSE RIDING STABLES

January 19, 1988

Steven Hilsee, Esquire
Weinberg & Green, 14th Floor
100 S Charles Street
Baltimore, MD 21201

Dear Mr. Hilsee:

I am an inspector for the State Board of Inspection of Horse Riding Stables. As a result of a consumer complaint concerning shelter for horses, I went to investigate the property at 4929 Deer Park Road.

David and Mary Kessler board less than five horses at this address and are not required to be licensed. They also keep some of their own horses. At the time I was there, they had a total of nine horses on this property.

I was invited to look at their facilities. I found the stable and grounds met the standards the Board requires of licensed stables, even though they are not licensed and are not required to be licensed. I further observed that even though they had limited acreage, the Kesslers observed good management practices.

Very Truly Yours,

Beverly A. Raymond
Beverly A. Raymond
Inspector

BAR:lm1

cc: Dr. Park

TELEPHONE NUMBER (301) 841-5861

50 HARRY S TRUMAN PARKWAY, ANNAPOLIS, MARYLAND 21401

MARCOM EXCHANGE 841

FACSIMILE 841-5770

TELEX-NU 87856

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4300

Paul H. Reincke
Chief

September 22, 1987



Re: Property Owner: David R. Kessler, et ux

Location: E/S Deer Park Road, 2315' c/1 Doldfield Road

Item No.: 104

Zoning Agenda: Meeting of 9/22/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(x) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill*

Noted and

Approved:

Fire Prevention Bureau

Planning Group

Special Inspection Division

/s/

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 5, 1988

COUNTY OFFICE BLDG.
121 W. Chesapeake Ave.
Towson, Maryland 21204

cc:

William B. Bergen, Jr., Esquire
17 Commerce Street
Baltimore, Maryland 21202

RE: Item No. 104 - Case No. 88-268-SPHA
Petitioners: David R. Kessler, et ux
Petitions for Special Hearing and
Zoning Variance

Dear Mr. Bergen:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kbb

Enclosures

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-5554

October 5, 1987

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Meeting of September 22, 1987

Dear Zoning Commissioner:

The Bureau of Traffic Engineering has no comments for items number 96, 97, 98, 99, 100, 101, 102, 103, 104, and 105.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

268-SPHA

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
3rd day of November, 1987.

Robert Haines
ROBERT HAINES
ZONING COMMISSIONER

Petitioner David R. Kessler, et ux
Petitioner's Attorney

Received by: *James E. Dyer*
Chairman, Zoning Plans
Advisory Committee

